

Date of decision: 27-2-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S. K. KESHOTE, J

(27-2-1996)

Mr. J. R. Nanavati for the petitioner
Miss Sejal Mandavia for the respondent.

ORAL JUDGMENT:

Heard the learned counsel for the parties. The petitioner has filed the present writ petition challenging the order dated 5th November, 1982 passed by the respondent by which he was reverted from the post of Assistant Regional Transport Officer to the post of Motor Vehicle Inspector. The writ petition was admitted by this Court on 23rd December, 1982 and interim relief was also granted in favour of the petitioner in terms of para 20(C) of the petition, staying the order of reversion.

2. It is not in dispute that the Departmental Promotion Committee had adjudged the petitioner suitable for promotion to the post of Assistant Regional Transport Officer. His name has been placed in the provisional select list prepared by the Departmental Promotion Committee. Acting upon that provisional select list the petitioner has been given promotion. The Gujarat Public Service Commission has not approve that provisional select list and consequently the petitioner was ordered to be reverted.

3. I have called for the record of the Gujarat Public Service Commission. I find no reason whatsoever given by the Commission not to accept the recommendation of the Departmental Promotion Committee. The Commission held that the petitioner is not eligible to keep his name in the provisional select list. I find from the record of Gujarat Public Service Commission, which is in Gujarati, English translation of which has been given to the Court, that there is nothing adverse in the service record of the petitioner. The Chairman of the Commission observed that viewed from all angles, the work of the petitioner being overall good, the Commission may agree with the Government's proposal. After the matter was discussed, the Commission decided that the petitioner was not eligible for keeping his name in the the provisional select list. No reasons were recorded by the Commission for arriving at this conclusion. Learned counsel for the respondent conceded that there is no adverse remarks in the service record of the petitioner. It is also conceded that warning is not a punishment. In absence of any adverse entry in the service record, I fail to see any justification with the action of the Gujarat Public Service Commission in disapproving the name of the petitioner for promotion.

4. So far as the department is concerned, the Departmental Promotion Committee has recommended for giving promotion to the petitioner. Ms. Sejal Mandavia, learned counsel for the respondent stated that the Department has nothing objectionable against the petitioner, and in fact the Department has promoted him on the recommendation of the

Departmental Promotion Committee, but the reversion has been ordered only because the Departmental Promotion Committee's recommendation has not been accepted by the Gujarat Public Service Commission. Till day the Department has no objection whatsoever against the petitioner. The Department had to revert the petitioner because of non-approval of his name by the Gujarat Public Service Commission. The Gujarat Public Service Commission could disagree with the decision of the Departmental Promotion Committee, but it should have given cogent and justifiable reasons for its disagreement, which are absolutely lacking in the present case. On the contrary the Chairman of the Gujarat Public Service Commission had opined that the Commission may agree with the Government's proposal.

5. In the result this writ petition succeeds, and the same is allowed. The order dated 5thNovember,1982 produced at annexure-B to the petition is quashed and set aside. Rule made absolute accordingly.